

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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TX EASTERN-MARSHALL

PETER SKLAR, an individual

Plaintiff,

vs.

MICROSOFT CORPORATION, a
Washington corporation,

Defendant.

Civil Action No. 2-06-CV-007
(JURY)

40 BY _____

COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

Plaintiff Peter Sklar ("Sklar") for his Complaint against Defendant Microsoft Corporation ("Microsoft") alleges:

THE PARTIES

1. Sklar is an individual who resides in Santa Barbara, California.
2. Microsoft Corporation ("Microsoft") is a corporation organized and existing under the laws of the State of Washington, with its principal place of business in Redmond, Washington.

JURISDICTION AND VENUE

3. The court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§1 *et seq.* Venue is proper in this federal district pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) in that Microsoft has done business in this District, has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling Sklar to relief.

INFRINGEMENT OF U.S. PATENT NO. 6,025,843

4. On February 20, 2000, United States Patent No. 6,025,843 (the "843 patent") was duly and legally issued for inventions entitled "Clustering User Interface." Sklar holds all

rights and interest in the '843 patent. A true and correct copy of the '843 patent is attached hereto as Exhibit A.

5. Upon information and belief, Microsoft has infringed, contributed to infringement, induced infringement, and continues to infringe the '843 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of Microsoft Windows XP; and inducement of others to manufacture, use, sell, import, and/or offer for sale of such products. Microsoft is liable for infringement of the '843 patent pursuant to 35 U.S.C. § 271.

6. Microsoft's acts of infringement have caused damage to Sklar and Sklar is entitled to recover from Microsoft the damages sustained by Sklar as a result of Microsoft's wrongful acts in an amount subject to proof at trial. Microsoft's infringement of Sklar's exclusive rights under the '843 patent will continue to damage Sklar, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

7. Upon information and belief, Microsoft has knowledge of its infringement of the '843 patent, yet Microsoft continues to infringe said patent. Microsoft's infringement of the '843 patent is willful and deliberate, entitling Sklar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 6,243,094

8. On June 5, 2001, United States Patent No. 6,243,094 (the "'094 patent") was duly and legally issued for inventions entitled "Clustering User Interface." Sklar holds all rights and interest in the '094 patent. A true and correct copy of the '094 patent is attached hereto as Exhibit B.

9. Upon information and belief, Microsoft has infringed, contributed to infringement, induced infringement, and continues to infringe the '094 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of Microsoft Windows XP; and inducement of others to manufacture, use, sell, import, and/or offer for sale of such products. Microsoft is liable for infringement of the '094 patent pursuant to 35 U.S.C. § 271.

10. Microsoft's acts of infringement have caused damage to Sklar and Sklar is entitled to recover from Microsoft the damages sustained by Sklar as a result of Microsoft's wrongful acts in an amount subject to proof at trial. Microsoft's infringement of Sklar's exclusive rights under the '094 patent will continue to damage Sklar, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

11. Upon information and belief, Microsoft has knowledge of its infringement of the '094 patent, yet Microsoft continues to infringe said patent. Microsoft's infringement of the '094 patent is willful and deliberate, entitling Sklar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Sklar requests entry of judgment in his favor and against Microsoft as follows:

- a) Declaration that Microsoft has infringed U.S. Patent Nos. 6,025,843 and 6,243,094;
- b) Permanently enjoining Microsoft, its officers, agents, employees, and those acting in privity with them, from further infringement, contributory infringement and/or inducing infringement of U.S. Patent Nos. 6,025,843 and 6,243,094;
- c) Awarding the damages arising out of Microsoft's infringement of U.S. Patent Nos. 6,025,843 and 6,243,094, including enhanced damages pursuant to 35 U.S.C. § 284, to Sklar, together with prejudgment and post-judgment interest, in an amount according to proof;
- d) An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and
- e) For such other costs and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Sklar hereby demands a trial by jury on all issues.

DATED: January 6, 2006

Respectfully submitted,

SUSMAN GODFREY, L.L.P

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EXHIBIT A